UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/71
12 March 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Afghanistan

Report of the Secretary-General

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GE.98-10878 (E)

Introduction

1. A special rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then, the mandate has been renewed regularly by resolutions of the Commission, endorsed by the Economic and Social Council, in which the Special Rapporteur was requested to submit reports to the Commission and to the General Assembly. The former are contained in documents E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31, E/CN.4/1992/33, E/CN.4/1993/42, E/CN.4/1994/53, E/CN.4/1995/64, E/CN.4/1996/64 and E/CN.4/1997/59 and the latter in the annexes to documents A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606, A/47/656, A/48/584, A/49/650, A/50/567, A/51/481 and A/52/493. Mr. Choong-Hyun Paik was appointed Special Rapporteur on the situation of human rights in Afghanistan in April 1995.

2. At its fifty-third session, the Commission on Human Rights decided, in its resolution 1997/65 of 16 April 1997, to extend the mandate of the Special Rapporteur for one year, an extension which was approved by the Economic and Social Council in its decision 1997/273 of 22 July 1997.

3. At its fifty-second session, after considering the report submitted to it by the Special Rapporteur, the General Assembly, in its resolution 52/145 of 12 December 1997, decided to keep the situation of human rights in Afghanistan under consideration at its fifty-third session, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

4. Subsequent to the renewal of the mandate by the Commission on Human Rights at its fifty-third session, and in accordance with past practice, the Special Rapporteur visited Mazar-i-Sharif, Bamyan, Herat and Kandahar in Afghanistan from 27 July to 3 August 1997 and Islamabad and Peshawar in Pakistan on 27 and 31 July and on 1 and 2 August 1997, prior to finalizing his report to the General Assembly (A/52/493).

5. Prior to finalizing the present report and in order to gain comprehensive insight into the situation covered by his mandate, the Special Rapporteur visited, in Pakistan, Islamabad on 30 November and on 1 and 13 December and Peshawar on 5 and 6 December 1997. In Afghanistan, he visited Kabul on 2 and 3 December and Kandahar, Faizabad, Jalalabad, Shebergan and Mazar-i-Sharif from 7 to 12 December 1997.

6. In Afghanistan, the Special Rapporteur met in Kabul with the President of the Supreme Court, Maulavi Mohammad Absar; with the head of the Department for Promotion of Virtue and Suppression of Vice, Maulavi Qalamuddin; and visited Pul-i-Charkhi prison. In Kandahar, he met with the Governor and member of the Taliban Supreme Council, Mullah Mohammad Hassan; and with the Secretary-General and Spokesman of the Taliban movement, Mullah Wakil. The Special Rapporteur visited in prison General Ismail Khan. In Faizabad, he met with the Governor of Badakhshan province, Mr. Said Mohammad Amin Tariq, and visited an orphanage. The Special Rapporteur met in Jalalabad with the head

of the Judiciary Branch for the Eastern Zone, Maulavi Qari Mohammad Sadiq. He also visited Jalalabad prison. The Special Rapporteur travelled to Shebergan where he met with General Dostom and visited a number of sites where numerous persons were buried. He also visited Shebergan hospital. The Special Rapporteur travelled to a number of sites located between Mazar-i-Sharif and Hairatan where numerous persons have been buried as well. While in northern Afghanistan, he visited the Qezelabad and Sheikhabad villages near Mazar-i-Sharif where numerous persons were reported to have been killed in September 1997 and met with the village elders. In Mazar-i-Sharif, the Special Rapporteur met with a member of the Council of the Hezbe Wahadat political party. In all the cities which he visited in Afghanistan, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian and non-governmental organizations as well as with private individuals.

7. In Pakistan, the Special Rapporteur met in Islamabad with the Additional Foreign Secretary of Pakistan, Mr. Iftikhar Murshed; with the Director-General, Afghanistan, Mr. Babar Malik; with the Director, Afghanistan, Mr. Ayaz Wazir; and with a number of officials of the Ministry of Foreign Affairs. While in Islamabad, he also met with the Taliban representative, Maulavi Shahabuddin Dilawar. In Peshawar, the Special Rapporteur visited the Kacha Gari camp for Afghan refugees where he met with the District Coordinator and two social animators from the Social Welfare Cell of the Commissionerate for Afghan Refugees, North West Frontier Province. In both Islamabad and Peshawar, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian and non-governmental organizations as well as with private individuals.

8. The Special Rapporteur wishes to express his sincere appreciation to the governmental authorities of Afghanistan and Pakistan for having extended their full cooperation during the course of the mission. He also wishes to thank the provincial authorities in Kabul, Kandahar, Faizabad, Jalalabad, Shebergan and Mazar-i-Sharif as well as the local authorities of Qezelabad and Sheikhabad villages for the valuable assistance accorded to him when he visited those areas.

9. The Special Rapporteur wishes to thank in particular the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) as well as the United Nations Special Mission to Afghanistan (UNSMA) for the most efficient logistical support and kind assistance extended to him in the field.

10. The Special Rapporteur has the honour to submit his report to the Commission on Human Rights, which was finalized at the end of December 1997, in compliance with Commission on Human Rights resolution 1997/65. It updates his interim report to the General Assembly (A/52/493) and should be read in conjunction with it.

I. OUTLINE OF POLITICAL AND MILITARY DEVELOPMENTS SINCE THE SUBMISSION OF THE PREVIOUS REPORT

Situation on the frontlines

11. The conflict in Afghanistan continued unabated throughout 1997. Armed hostilities occurred on a number of fronts and resulted in a massive loss of life. The Northern Alliance, a loose coalition of five parties making up the Islamic and National Front for the Salvation of Afghanistan, continued to confront the Taliban movement. Both sides are believed to have received from abroad large quantities of military equipment as well as other types of assistance.

12. The Taliban movement has continued to control the capital of Afghanistan, Kabul, as well as the cities of Kandahar, Herat, and Jalalabad. The Northern Alliance, which is composed of the National Islamic Movement of Afghanistan (NIMA), headed by General Abdul Rashid Dostom; the Hezbe Wahadat party headed by Mr. Karim Khalili as well as a breakaway faction led by Mr. Hammed Akbari; the Jamiat Islami party headed by Mr. Burhanuddin Rabbani and military commander Ahmad Shah Massoud; and the Harakat Islami party led by Sheikh Asef Mohseni, continued to control the cities of Mazar-i-Sharif, Shebergan, Maimana, Bamyan, Taloqan and Faizabad. The Taliban movement launched two offensives, in May and September 1997, against the Northern Alliance. Severe fighting broke out in particular in and around the city of Mazar-i-Sharif, the capital of Balkh province in northern Afghanistan. The fighting resulted in significant loss of life, both among combatants and civilians, and the taking of a large number of prisoners. In addition to casualties resulting from armed hostilities, allegations have been made of summary executions of a large number of persons in the area.

13. At the beginning of 1997, strategic positions to the north of Kabul and a number of localities were taken by the Taliban. They were also able to advance toward Bamyan province through the Ghorband valley. These advances were more or less reversed in May and the frontline moved to a distance of 20 to 25 kilometres north of Kabul. The city sustained aerial bombing, rocketing and artillery fire on a number of occasions, resulting in a number of civilian casualties. In addition, it is estimated that by the end of 1997, the Taliban had forcibly displaced up to 250,000 persons from the Shomali valley north of Kabul in order to prevent them from swelling enemy ranks.

14. Fighting also continued in Badghis province but no significant frontline changes occurred. Hostilities also took place in the Kunduz and Takhar areas. Other regions under the control of the Taliban movement remained relatively calm. The Special Rapporteur was told once again that 95 per cent of Afghanistan's population which rejects war is held hostage by the 5 per cent who are armed and profit from it.

Political situation

15. Fanned by external political and military support, the ethnic and religious divide in Afghanistan became deeper during the period under review. Rifts also took place within a single party or grouping, especially within the Northern Alliance. The United Nations repeatedly tried to bring the warring

parties to the negotiating table with a view to arriving at a peaceful solution to the conflict and establishing a broad-based and representative government in the country. These peacemaking efforts did not yield positive results owing to the conditions set by both sides who appear to have opted at present for a military solution to the conflict. The large number of casualties and prisoners taken during hostilities rendered these attempts even more difficult. In his report on the situation in Afghanistan and its implications for international peace and security (A/52/682-S/1997/894), the United Nations Secretary-General stated that "In these circumstances, it is illusory to think that peace can be achieved. How can peace be imposed on faction leaders who are determined to fight it out to the finish and who receive seemingly unlimited supplies of arms from outside sponsors?" (paragraph 39). The United Nations continued to hold meetings with countries with influence and other parties interested in Afghanistan throughout the year. The international community decided to further integrate its activities in Afghanistan through the elaboration of a strategic framework for that country. Initiatives for a peaceful settlement of the conflict through intra-Afghan dialogue were undertaken by Pakistan and the Islamic Republic of Iran as well as within the framework of the Organization of the Islamic Conference.

16. The activities of the United Nations were disrupted seriously by the fighting and subsequent lawlessness prevailing in Mazar-i-Sharif. Threats, chaos and looting on a massive scale resulted in the withdrawal of international United Nations staff and virtual cessation of its activities in the north. The widespread looting, apparently by all sides involved in the conflict, has had particularly adverse consequences for the World Food Programme warehouses in Mazar-i-Sharif and Hairatan, which mostly contained wheat and cooking oil earmarked for the needy population of central Afghanistan during the winter. No news has been received that those who looted United Nations premises have been punished. Threats have been voiced on a number of occasions against United Nations staff, both in areas controlled by the Northern Alliance and those under the control of the Taliban movement. At the end of December 1997 and beginning of January 1998, the airstrip in Bamyan was bombed by the Taliban during the delivery of emergency humanitarian assistance and a United Nations security mission.

II. THE HUMAN RIGHTS SITUATION SINCE THE SUBMISSION OF THE PREVIOUS REPORT

17. The situation of human rights in Afghanistan deteriorated further since the submission of the Special Rapporteur's report to the General Assembly. The continued absence of a central power and governmental institutions as well as the intensification of fighting, lawlessness and chaos in certain parts of the country were a significant contributing factor. The most serious aspect of the current situation of human rights were the killings of civilians reported to have taken place in a number of villages around Mazar-i-Sharif in September 1997 and the discovery near Shebergan and Mazar-i-Sharif of several sites in November 1997 where numerous people, some of whom may have been summarily executed, are buried. The Special Rapporteur visited a number of those sites in December 1997. Additional killings are alleged to have occurred in the areas of Puli Khumri and in Badghis province. Such acts constitute grave breaches of international humanitarian and human rights law.

The aggravated effects of the ongoing war on the overall population of Afghanistan, the growing division of the country along ethnic and religious lines as well as the administrative and social practices of the Taliban movement, particularly gender discrimination, in areas under their control also continued to give rise to serious concern. The ethnic and religious division has reportedly curtailed the freedom of movement to a considerable extent, in particular in cities like Kabul. A number of the Special Rapporteur's interlocutors described the ethnic situation in the whole country as amounting to ethnic cleansing. The situation of Afghan women and girls, who make up more than half of the country's population, has been described as "dire and dreadful" since they are effectively excluded from all aspects of the country's economic, social and political life, mainly in Taliban-controlled areas.

18. In view of the above, the Special Rapporteur has decided to dwell only on the most salient and recent features of the situation of human rights in Afghanistan in the areas visited by the Special Rapporteur.

Kabul

19. Although he had noted a pronounced change in the atmosphere prevailing in the city on previous occasions, the Special Rapporteur was able to observe that Kabul had virtually turned into a "ghost town" during his most recent visit. The Special Rapporteur was told that people generally preferred to stay at home and ventured outside only if they have a specific errand to run or task to accomplish. The fear of both men and women of being stopped or harassed by the religious police coupled with the drastic reduction in purchasing power of the population as a result of the disastrous economic situation have rendered the city streets practically deserted in the middle of the day. The Special Rapporteur was informed that shopkeepers who were found in their stores at prayer time had been beaten by the religious police. Punishments for some offences could reportedly range from 10 to 40 lashes. Some persons are said to have been beaten successively at several religious police checkpoints. Gatherings of more than five persons were said to be illegal in Kabul. It has also been alleged that the local radio station had broadcast that no one was allowed to criticize the Government. The Special Rapporteur was told that human rights abuses in Kabul had become more institutionalized, more systematic and more insidious during the period under review. Some Taliban policies were described as being intentionally inconsistent.

20. During his meeting with the head of the Department for Promotion of Virtue and Suppression of Vice (religious police), the Special Rapporteur was informed that, in addition to the department he headed, the administration of justice was dealt with by the Supreme Court, the Ministry of Justice and the Attorney-General. The head of the Department explained that it had two roles: to promote virtue and prohibit vice. It promoted virtue by calling people to do good deeds and prohibited vice by keeping people out of crimes and other anti-religious activities. He compared the Department to the advisory role of doctors in preventive medicine - telling people what to do and what is not good for them, like gambling and other bad things. This role was twofold when something was wrong: advising and stopping. In general, the responsibility of the office was to maintain Sharia law in the country. Its duty was to stop

bad things. However, once something had happened, it was the duty of the police to investigate and turn the case over to the Chief Justice and the Attorney-General.

21. The Special Rapporteur asked the head of the Department who had the final word regarding the prescribed length of beards. He was informed that small incidents and small social and religious crimes were dealt with exclusively by the Department for Promotion of Virtue and Suppression of Vice, which offered advice and punishment. Orders were issued by radio, newspapers and mosques. The head of the Department stated that in any disaster, the most important thing was to save the lives of people, and then provide food and shelter. He indicated that the principal crimes faced before the advent of the Taliban were looting, killing, rape, hijacking and kidnapping. He concluded by stating that Afghanistan needed assistance from the international community in all fields.

22. The Special Rapporteur was informed that three stages of courts existed in Kabul: preliminary courts, courts of appeal and the Supreme Court. Important matters were said to pass through all three stages. However, in cases of homicide, the three stages could be bypassed if the Taliban supreme leader, Mullah Mohammad Omar, were to issue a death decree. In general, all death sentences were reportedly to be reviewed by Mullah Omar. The Special Rapporteur was informed by different sources, however, that persons could be arrested arbitrarily in Kabul, at times on a whim, without the Ministry of Justice or of the Interior being informed. It has been alleged that persons who have been extrajudicially arrested were at times detained in the premises of a given ministry. A direct correlation reportedly existed between arbitrary arrest and Taliban military failure. Persons could reportedly also be taken as hostages, at times in connection with their place of origin, and could be released against payment of large sums of money. Detention in all parts of the country by private armed commanders could reportedly be official or unofficial, and could take place in non-formal detention centres, including private houses. The absence of an effective central Government with a clear line of command was illustrated to the Special Rapporteur by the case of a local mullah (cleric) who had decided to imprison a certain person. Although the man's family had reportedly obtained a letter from the Taliban supreme leader, Mullah Mohammad Omar, for him to be released, the actual release was ultimately decided by the cleric in question.

23. The Special Rapporteur was informed that a large number of persons were detained in Kabul. The President of the Supreme Court in Kabul told him that 1,500 persons were detained, on very concrete evidence. The Special Rapporteur subsequently visited Pul-i-Charkhi prison near Kabul and was informed that it contained approximately 750 prisoners. There were reportedly no women or minors aged under 15. The Special Rapporteur was told that the persons detained had committed important crimes against the Government in Kabul. Most had been apprehended at or near the frontlines but some were also arrested in Kabul. Some had been taken to court while others were under investigation. The prison authorities reportedly supplied food and clothes and visits were allowed on Sundays and Mondays. The prisoners were said to be visited by the International Committee of the Red Cross with which they could lodge complaints. The prison authorities had reportedly acceded to the prisoners' request that they spend more time outdoors in the sun during the

day. Only religious books were available. The Special Rapporteur, who spoke to prisoners both in the prison yard and inside the building, inquired about their places of origin: Charikar, Bagram, Panjshir, Kunduz. He was able to observe that numerous prisoners appeared to belong to the Hazara (Shia Muslim) ethnic and religious minority.

24. In one of the prison cells he visited, the Special Rapporteur spoke to a person who was originally from Bamyan province but resided in Kabul where he worked as a driver. He was reportedly coming to Kabul from Baghlan province and was arrested near Bagram, north of the city. The prisoner indicated that those who had captured him were also in jail. Another prisoner interviewed by the Special Rapporteur had not been brought on trial and did not know the charges against him. He said that he had been captured and taken to a security establishment and that he had not been mistreated. One prisoner said that he believed that since a situation of war prevailed in the country, persons were arrested and would be detained in order to be exchanged at the end of the war. It was stated that a representative of the High Court came to the prison once a week.

25. It is estimated that in Kabul alone, 40 per cent of the requirements for international humanitarian assistance were generated by the policy of the Taliban movement towards women. The President of the Supreme Court in Kabul told the Special Rapporteur that with several frontlines currently existing in the country and with the inability to collect taxes and pay salaries, the issue of female education and employment could not be dealt with at present. He also added that women's education should be limited since women should not be exposed to evil through education. He informed the Special Rapporteur that the Council of Religious Scholars in Kandahar (Shura of Ulema) would ultimately decide on the matter and stated that each of the 23 provinces under the control of the Taliban movement was asked to send three representatives to sit on this Shura. It should be recalled that the Special Rapporteur had already met with the members of the cited Council prior to finalizing his report to the Commission on Human Rights at its fifty-third session and had the opportunity to hear their views. He was informed during his most recent visit to Kabul that the situation regarding female education and employment had not changed for the better at all and that women were being increasingly disempowered. In a somewhat surprising development, the Special Rapporteur was informed that sexual harassment had increased in Kabul since the Taliban movement had rendered the wearing of the all-covering burqa veil mandatory for women. The wearing of the burqa, perceived by some to be provocative, had reportedly produced the opposite effect and women were said to be increasingly subjected to indecent proposals while waiting for transport at bus stops. The Special Rapporteur was told that a four-year-old boy was acceptable as a chaperone for an adult educated woman.

26. A recent issue of particular concern in relation to women were the directives issued on 6 September 1997 by the Taliban Ministry of Public Health concerning the removal of female staff from Kabul's medical facilities and the closure of services to women in all of the city's hospitals, with the exception of a few that would be allowed to treat emergency cases. Medical services for women were to be concentrated in a single hospital that was barely operational for lack of equipment and qualified staff. In addition to difficulty of access, this meant that a city whose population is estimated

at 1.2 million would have had for more than half of its inhabitants only a 45-bed in-patient medical facility with a single qualified female surgeon but no operating surgical equipment. In a subsequent positive development, the Special Rapporteur was informed during his visit to Kabul that this policy had largely been reversed and that a health commission comprised of representatives of ministries as well as of the international community had been set up at the end of November. A working group was said to be mediating between the authorities, the international community and medical personnel. It is estimated that 40 per cent of private doctors have left Kabul and that 70 per cent of female doctors had closed their private clinics.

27. The Special Rapporteur's attention was drawn to a particularly grave occurrence in Kabul, said not to be an isolated case, which is reported to have taken place after the announcement of the discovery of mass graves in northern Afghanistan believed to contain the remains of Taliban. According to the sources, three children aged under 14, one girl and two boys, all of them ethnic Hazaras, were reportedly gang-raped and genitally mutilated. Cases and consequences of rape are said to be particularly difficult to deal with in the local traditional and religious context. The Special Rapporteur was alerted to the fact that because of the growing division of the country along ethnic lines, persons belonging to the Hazara ethnic minority had difficulty moving around freely and entering hospitals in Kabul. Owing to logistical constraints, the Special Rapporteur was unable to discuss the information cited above with the competent Taliban authorities in Kabul.

28. The Special Rapporteur's attention was also drawn to the alarming findings of a study conducted in Kabul among more than 300 children between the ages of 8 and 18 which was published by UNICEF on 7 October 1997. It revealed that 90 per cent of the children believed that they would die during the conflict. Between 1992 and 1996, 72 per cent had experienced a death in their family, 40 per cent of which involved a parent. Virtually all of the children had witnessed acts of violence during the fighting. Almost half saw people getting killed during artillery and rocket attacks while two thirds saw dead bodies or parts of bodies. The majority of children were experiencing serious traumatic stress manifested through nightmares, anxiety and concentration and appetite problems. Almost half cited fear as their strongest emotion. Nearly three quarters of the children interviewed expected not to live to adulthood.

29. Most inhabitants of Kabul were described to the Special Rapporteur as cases of borderline nourishment. The global malnutrition of children stood at some 6.8 per cent while 1.3 per cent of children suffered from severe malnutrition which can over time have very serious consequences for physical and intellectual development manifested through phenomena such as stunting and underdeveloped brains. The Special Rapporteur was told that the population of Kabul was suffering psychologically from post-traumatic stress disorders. The suicide rate among women was said to be on the rise.

30. During his recent visit to Kabul, the Special Rapporteur was informed that some 70 professors and lecturers from Kabul University and the Polytechnic Institute had been fired recently by the Taliban authorities on account of alleged association with the previous communist authorities. No appeal was reported to be possible. The persons concerned, some of whom are

said to have been replaced by non-scholars, would allegedly be allowed to work in the private sector. The purges are said to have concerned persons who used to be members of the Communist Party, were commended for their service during the communist Government, those who had studied in the former Soviet Union and other former socialist countries, the Islamic Republic of Iran, India and Turkey or who had travelled to those countries. The Special Rapporteur was informed that the measure had dealt a serious blow to Kabul's academic community and had reduced it by one third. The purges, carried out by a commission headed by the Taliban Minister of Justice, were reportedly ongoing and had also affected 48 employees of the Taliban Ministry of Public Health and 122 military prosecutors. Persons at the administrative level are said to have been replaced by mullahs, thereby eroding further the country's bureaucratic capacity. In addition to ideological considerations, the purges were also described as a settling of scores.

Kandahar

31. The Special Rapporteur spoke upon arrival with an international United Nations staff member who had attended the meeting of a district council in Kandahar province which was attended by the local Governor and Chief Justice. The district judge reportedly read out a letter by the Taliban supreme leader, Mullah Mohammad Omar, which stated that: (i) all villages should have a mosque; (ii) that people should pray five times a day; and (iii) that all families should send both their male and female children to school up to the age of 12. Girls were to be sent to school in order to learn how to read and write. It was reported that the judge had subsequently asked the United Nations when the girls' schools would be opened.

32. The Special Rapporteur was told that a massive campaign of forced conscription was taking place in the Kandahar and Helmand provinces, especially in the villages, where a conspicuous absence of young men has reportedly been observed. He was told that the inhabitants of Kandahar city were not trusted by the Taliban since the Taliban were viewed as occupiers. The Special Rapporteur was informed that an FAO district centre in a neighbouring district had been expropriated for conscription purposes. He was told that some villages had set up observation posts to watch out for conscription teams.

33. The Special Rapporteur met with the Governor of Kandahar and the Secretary-General and spokesman of the Taliban movement. They told the Special Rapporteur of reports received from former Taliban prisoners who were detained by members of the Northern Alliance about the treatment meted out to them. According to the accounts, some prisoners were forced to give blood. They are said not to have received any medical treatment and some reportedly had pieces of cloth with salt placed on their wounds. Taliban prisoners detained in the Panjshir reportedly received only a small bowl containing a mixture of rice and peas per day. The Special Rapporteur was shown a small round piece of bread which was said to have constituted the average prisoner's daily diet.

34. While in Kandahar, the Special Rapporteur visited in prison General Ismail Khan who was handed over to the Taliban, together with several hundred of his troops, by General Abdul Malik when he briefly joined

the movement in May 1997. The Special Rapporteur informed him that he had joined in an urgent appeal sent by two other human rights special rapporteurs asking that he be accorded humane treatment. Mr. Ismail Khan appeared healthy and did not voice any complaints about his treatment. He expressed the hope to be given the opportunity to exchange correspondence with his family at least once or twice a month and told the Special Rapporteur that he spent his time reading the Koran and Islamic religious books but would be willing to read other books if available.

Faizabad

35. The Special Rapporteur visited Faizabad, the capital of Badakhshan province, which has a population of approximately 70,000-80,000. The province has a population of 1 million and is under the control of the Jamiat Islami political party. The Special Rapporteur was informed that the province was traditionally a food-deficient area, especially during the winter months. The economic situation was bad and opium was considered a cash crop. Agriculture and animal husbandry were the principal economic activities, together with carpet weaving and the extraction of semi-precious stones. The bad economic situation and food shortages caused prices to soar during the winter while the environment was damaged by the cutting of trees for firewood. The United Nations was implementing food-for-work and food-for-training programmes in the province, as well as emergency food assistance and institutional feeding. Work was also being carried out on a water supply facility for Faizabad and an orthopaedic-prosthetic workshop. Micro credit was provided by the international community for small businesses and projects for women such as tailoring and carpet weaving. The international community was also assisting an institution for drug addicts. There was 11 per cent malnutrition in the province. Numerous schools were functioning but lacking in school materials and approximately 1,700 teachers out of 3,700 in the province were women. Occasional security incidents reportedly originated in poverty and infighting. The Special Rapporteur was informed that a person who had committed several murders and had received repeated warnings regarding his behaviour was executed in public after a verdict had been reached by a public court. The head of the Jamiat Party, Burhanuddin Rabbani, had reportedly upheld the sentence.

36. The Special Rapporteur met with the Governor of Badakhashan who informed him that there was no discrimination based on gender in the province. Climatic conditions had a considerable influence on life and the region was not devoid of landmines left over from the Soviet invasion. Numerous problems were encountered in the field of health and hospitals were said to be ill-equipped. There was special need for medicines and foodstuffs during the winter. The province had 18,000 civil servants but no funds for salaries. Education was mixed up to the sixth grade and after completion of high school. There was a teachers' training college, a nursing school and a college of agriculture, but no university in the province. The Governor hoped for job creation that would generate income and draw people away from poppy cultivation. Seeds and fertilizers were also needed. During his visit to Faizabad, the Special Rapporteur also visited an orphanage housing 40 children of both sexes who all went to school. Most of the children had lost their

fathers and their mothers were said to be too poor to feed them. Assistance to the orphanage was provided by United Nations agencies and international non-governmental organizations.

Jalalabad

37. The Special Rapporteur was informed that there was absolutely no education, not even Koranic schools, for girls in Jalalabad. He was told that some women in the city who were considered immoral had been killed in unclear circumstances. A number of educated women in the city are reported to have been threatened and harassed by the Taliban. A mullah belonging to the Taliban movement was reported to be notorious for his harassment of women but had been jailed for only a few days. The Special Rapporteur visited the central prison where 32 political prisoners, 44 common criminals and 5 women prisoners with 4 children were detained. Political prisoners were reported to be equated to prisoners of war, which included persons belonging to ethnic and religious minorities who currently oppose the Taliban movement on the battlefield. A large number of the prisoners had been arrested on the frontlines and wanted to be exchanged. There was said to be one male and one female teacher for the prisoners, whose functions were unclear. Problems of food and clothing in the prison had been solved with the help of a number of international agencies. The cells did not appear to have heating but were relatively clean.

38. The Special Rapporteur met in Jalalabad with the head of the Judiciary Branch for the Eastern Zone (Kunar, Nangarhar and Laghman provinces) who informed him that there was no government prosecutor and that anyone could bring a case before the judiciary. Criminal and civil cases had separate judicial proceedings but the division between criminal and military jurisdictions was not clear. Each district had a judge and district courts were considered as high courts. The judiciary did not have independent power to decide who was qualified to be a judge, to appoint judges or to implement and monitor the implementation of amnesty decrees. The Special Rapporteur was told that to become a judge, one had to know about Islamic teachings, come from a religious school and be experienced. Judges of the district courts are appointed by the Chief Justice of the Supreme Court in Kabul, who appoints both district and high court (Jalalabad provincial court) judges. The Special Rapporteur was informed that the courts dealt with numerous land disputes which were a legacy of the communist system. There was also no specific system for providing legal aid. Persons who violated the dress code could be punished by the Department for Promotion of Virtue and Suppression of Vice (religious police), independently from the judiciary. As concerned political prisoners, the Special Rapporteur was informed that the majority had been captured at the frontlines and were waiting to be exchanged. Numerous prisoners belonging to the Rabbani government had reportedly been released. No special court existed for juveniles.

39. As concerns education, the head of the judiciary informed the Special Rapporteur that Islam never forbade anyone access to school and that a wife of the Prophet personally taught other people. However, women had to be completely veiled. The current critical situation in the battlefield and the resulting lack of funds was cited as the reason why education for women was not available. The Special Rapporteur was told that engagement on the

frontline left no time for education. The head of the judiciary indicated that it was important to impose restrictions on education for girls in the city. This would allow education in the cities to resume in accordance with Islamic law and with the hejab (veil). He stated that if teaching was not carried out in accordance with Islam, the country would become a jungle and it was for the time being not ready for female education. In the villages, there were reportedly no problems and numerous schools. The authorities were reportedly compelled to implement the restrictions in the city because of the legacy of the previous Government's leniency. The head of the judiciary stated that experience had shown that the people of Afghanistan had to be shown the right way by force and that rules and regulations would never be respected if enforced in a peaceful atmosphere.

Shebergan

40. The Special Rapporteur and his United Nations team, which included a representative of the United Nations Special Mission to Afghanistan (UNSMA), as well as a forensic expert provided to the Special Rapporteur by the non-governmental organization Physicians for Human Rights, Dr. Mark Skinner, travelled to the city of Shebergan, the capital of Jowzjan province, on 10 December 1997 in order to inspect sites containing the so-called "mass graves" whose existence was announced in November 1997. One of the tasks at hand was to determine whether the bodies were those of battle casualties or of persons who had been executed, their approximate number and how they died.

41. It was alleged that the burial sites in northern Afghanistan might contain up to 2,000 bodies, presumably of the Taliban fighters who were taken prisoner by the forces of the Northern Alliance led by General Abdul Malik Pahlawan, the Deputy of General Abdul Rashid Dostom, the leader of the National Islamic Movement of Afghanistan (NIMA), whom he forced into exile in Turkey. General Abdul Malik briefly allied himself with the Taliban movement in May 1997 during their first offensive on the city of Mazar-i-Sharif, the capital of Balkh province. It is estimated that up to 3,000 Taliban may have arrived in the north of Afghanistan at that time. They suffered very heavy casualties after General Abdul Malik switched sides back to the Northern Alliance, with which he joined forces in ousting the Taliban. According to some estimates, several hundred if not more than a thousand Taliban fighters may have been killed during their two offensives on the north of Afghanistan in May and September 1997. It is estimated that between 300 and 400 Taliban may have been killed in Mazar-i-Sharif alone. It was also estimated that some 2,000 Taliban may have been taken prisoner. It should be recalled that despite repeated requests, the ICRC was never given access to the prisoners of the Northern Alliance, including those detained by General Abdul Malik.

42. Upon arrival in Shebergan on 10 December 1997, the Special Rapporteur met with and was briefed about the mass graves by General Dostom who told him that the burial sites might contain even more than 2,000 bodies since not all of those buried in them belonged to the Taliban movement. He stated that it had been discovered that among the persons killed while he was in exile in Turkey from May to September 1997 were prominent commanders affiliated with NIMA, traders and other prominent local personalities, some of whom were allegedly beheaded. He explained to the Special Rapporteur that clerics had found it difficult to give them a proper burial, stating that they could not

perform religious ceremonies on headless bodies. General Dostom alleged that the killings were ordered by his former deputy, General Abdul Malik. Apart from killing the Taliban prisoners as former and potential military opponents, allegations were made that the other killings were perpetrated out of revenge, in particular for the death in June 1996 of General Abdul Malik's brother, Rasul Pahlawan, as well as in order to eliminate potential military and political opponents from local militias or political groups, including from the ranks of persons loyal to General Dostom.

43. After the meeting, General Dostom accompanied the Special Rapporteur and his team to a number of burial sites in the vicinity of Shebergan. The same evening, he accompanied the Special Rapporteur to a more distant site, also in the vicinity of Shebergan, where people are alleged to have been thrown into nine water wells. The forensic expert subsequently excavated 10 skeletonizing bodies from an area representing one ninth of a bone-strewn mound of earth at a village dump located some 3 km west of Shebergan which is part of the first site visited by the Special Rapporteur. According to the forensic expert, these individuals were all young males dressed in summer clothing. Many had serious, probably fatal, gunshot wounds to various parts of the body. Two individuals showed evidence of having received medical treatment. Several had unspent rounds of ammunition still in their clothing. The forensic expert has concluded that these individuals were battle casualties. There was no evidence that they were prisoners deliberately executed. Hence, the only area examined in detail by the forensic expert did not support the account given to the Special Rapporteur by General Dostom.

44. According to the forensic expert, the picture emerging from the nine wells site is different. Allegedly, several hundred prisoners were forced down the wells. These wells have not yet been excavated. However, all nine wells show a bulldozed track up to the well mouth. Seven of the wells are plugged with earth. Two are open with water visible at a depth of about 10 metres. At all nine wells there are spent cartridges. At three wells there is evidence of the presence of anti-personnel mines as well as one grenade. The forensic expert found two pieces of human skull lying near the earth plugging one of the wells.

45. On 11 December, General Dostom accompanied the Special Rapporteur and his team to a stretch of highway between the cities of Mazar-i-Sharif and Hairatan, also in northern Afghanistan, where numerous bodies at several sites could be observed. At one particular locale, there was clear evidence that victims had been tied up individually or several at a time. There were many spent cartridges and the bodies were lying largely covered with sand in a row on either side of a ridge. The identity of the individuals is not known with certainty.

46. The forensic expert has concluded that of the three areas in northern Afghanistan visited by him, two areas contain evidence that may support allegations of human rights abuses. He feels that a neutral team of independent investigators should re-examine the areas as soon as logistically possible with a view to collecting further evidence to determine if indeed the alleged atrocities occurred and the numbers of victims involved.

Mazar-i-Sharif area

47. The Special Rapporteur took advantage of being in the area of Mazar-i-Sharif to visit the villages where massacres are reported to have been perpetrated in September 1997 by Taliban forces during their second offensive on the city of Mazar-i-Sharif, against villagers belonging to the Hazara ethnic minority. He visited first the village of Qezelabad where he met in the mosque with the village elders and local mullah. They explained that the Taliban had arrived in the village in the afternoon and had started knocking on doors and asking for weapons. If the person who had opened the door said that they did not have any, they were shot on the spot, in front of their family. If a person provided a weapon, they were allegedly shot on the spot by the Taliban with that same weapon. A number of farmers from the village were killed in the fields, some reportedly with their own agricultural implements. A group of 14 or 15 young men were taken from the village to the nearby airport where they were tortured and subsequently executed. The Special Rapporteur was told that a total of 53 villagers were killed in Qezelabad and that some 20 houses were set on fire. He walked about the village and was able to observe in two locations the graves of a number of those who had been killed. The Special Rapporteur was told that the killings were carried out on religious grounds, since the villagers were Hazara Shias, and out of revenge, because the village had fiercely resisted the Taliban during their first offensive on Mazar-i-Sharif in May 1997.

48. In the same context, the Special Rapporteur visited in the Dehdadi district near Mazar-i-Sharif the village of Sheikhabad where he met in the mosque with the local elders and village mullah. He was told that all the inhabitants had fled the village fearing the arrival of Taliban forces, except for the oldest among them. The Taliban had reportedly entered the village, tortured and killed the old men and mutilated and dismembered some of their bodies. A total of 30 elderly people are reported to have been killed in Sheikhabad. Although the Taliban were said to be the perpetrators of the killings, the villagers believed that the killings could also have been carried out by the forces of local Pashtun commanders who had joined the Taliban. The Special Rapporteur was told that killings of a similar type had also taken place in a number of other villages in the area. Owing to logistical constraints, the Special Rapporteur was unable to discuss the allegations formulated above with the competent Taliban authorities.

49. On 12 December 1997, before leaving Shebergan the Special Rapporteur asked to see water wells which continue to be used by local shepherds.

50. The Special Rapporteur visited the Shebergan city hospital where he met with three prisoners from Badakhshan province who had been detained in Kandahar by the Taliban movement. All three appeared emaciated and required medical treatment. They told the Special Rapporteur that three prisoners had to share a single long piece of bread as their only daily food.

Bamyan

51. The Special Rapporteur has followed closely the situation in the Hazarajat region in central Afghanistan which comprises Bamyan province. The Taliban movement has maintained what amounts to a blockade of the Hazarajat

region which is populated mostly by persons belonging to the Hazara ethnic minority. No food or medicines have been allowed into the area since August 1997. The Hazarajat is inhabited by some 1.2 million people and four districts in Bamyan and one in neighbouring Ghor province are said to be the most severely affected, with some 160,000 persons facing possible starvation owing to floods, crop failure and lack of access to food aid. The only approach to this region which is not controlled by Taliban forces is from the north where the security situation and rough terrain do not allow for the passage of food convoys, especially in winter. The Taliban have repeatedly denied access over land through the areas under their control to humanitarian assistance for fear that it might fall into the hands of enemy combatants. At the end of December and beginning of January, they bombed the runway in Bamyan while aircraft delivering food supplies were on the ground. The bombing of the airstrip was repeated while another United Nations airplane was on the ground. The Taliban representative in Islamabad told the Special Rapporteur that Bamyan was not subjected to a blockade since it could be reached from the north of the country where he said the United Nations warehouses containing food earmarked for the Hazarajat were looted by the forces of the Northern Alliance to which its inhabitants belong. He stated that if the people of Bamyan were in need, the Taliban were prepared to welcome them to camps in Nangarhar province which has a warmer climate.

III. CONCLUSIONS AND RECOMMENDATIONS

52. The human rights situation in Afghanistan has deteriorated throughout 1997 and the armed hostilities among the warring factions have taken on the features of violent confrontation with ethnic and religious attributes. The right to life of the Afghan people is under constant serious threat due to the intensification of hostilities, including along ethnic and religious lines, accompanied by flagrant violations of human rights such as executions, torture and other cruel, inhuman or degrading treatment or punishment, arbitrary detention, looting and unfounded persecution. This situation has led to unprecedented violence resulting in massive loss of life.

53. The Special Rapporteur condemns in the strongest terms all types of extrajudicial, summary or arbitrary executions, armed hostilities resulting in massive loss of life as well as all forms of torture and other cruel, inhuman or degrading treatment or punishment. He denounces in particular all killings which have taken place in northern Afghanistan. The Special Rapporteur wishes to underline his firm commitment to the promotion and protection of human rights, as well as to all victims of human rights violations.

54. The non-observance of the international laws of war and humanitarian norms in and outside the battle zones in Afghanistan is widespread. The frequent complete lack of awareness about and knowledge of the legal responsibilities arising from them on the part of both individual combatants and field commanders has resulted, inter alia, in the ill-treatment of prisoners of war and the imposition of inhumane conditions of detention. Since the armed hostilities among the warring factions have pronounced ethnic and religious dimensions, no distinction is made in the administration of criminal justice between prisoners of war, political prisoners and persons detained on religious grounds. The distinction between combatants and civilians is also not always made when prisoners are exchanged.

55. The Special Rapporteur visited in northern Afghanistan a number of sites comprising the so-called "mass graves" whose existence was announced in November 1997, with a view to gaining prima facie insight into the situation. He was assisted during this initial on-site fact-finding by a forensic expert who conducted a limited investigation by sampling.

56. The Special Rapporteur also visited in northern Afghanistan two among the villages where massacres of civilians are reported to have taken place and was informed by the local elders about what happened.

57. The initial on-site investigation was intended to be a preparatory one and should result in a further thorough investigation of all the sites concerned.

58. The infringements on women's rights in Afghanistan are such that they pose serious threats to their enjoyment of even the most basic rights, including the right to life, particularly in areas controlled by the Taliban movement where women continued to be denied access to education and employment.

59. Despite repeated appeals by the international community, the deliberate blockade of roads in areas they control by the Taliban movement and the lawlessness and banditry prevailing along the roads controlled by the so-called Northern Alliance which give access to the provinces comprising the isolated Hazarajat region in central Afghanistan remains in place and may result in famine and attendant inhumane hardships faced by the civilian population. In addition, Taliban forces have carried out aerial bombing of Bamyan airport during the United Nations food airlift as well as while the airplane of another United Nations mission was on the runway.

60. The production, processing and export of narcotics in and from Afghanistan, where the greatest proportion of poppy-producing areas is under Taliban control, pose serious obstacles to the control of narcotics worldwide. The Special Rapporteur expresses the hope that the implementation of the agreement concluded between the United Nations Drug Control Programme and the Taliban movement to gradually eradicate poppy cultivation in areas under their control will be abided by and monitored scrupulously.

Recommendations

61. Since not much progress has been noticed in their implementation to date, the recommendations contained in the Special Rapporteur's previous reports on the situation of human rights in Afghanistan remain valid.

62. All parties to the conflict in Afghanistan should refrain from committing human rights violations, in particular those amounting to extrajudicial, summary and arbitrary executions and to torture and other cruel, inhuman or degrading treatment or punishment. All armed hostilities should cease immediately and a negotiated solution be sought.

63. The international community should consider how to conduct a campaign of awareness and education about the international obligations and duties under the laws of war and international humanitarian law. All participants

to the armed conflict in Afghanistan should abide by those provisions with a view to halting or mitigating the suffering inflicted on the population of Afghanistan, thereby contributing to saving Afghan lives. The Special Rapporteur is of the opinion that the perpetration of and failure to prevent violations of the laws of war by combatants on both sides has stemmed largely from their lack of knowledge about their legal obligations and responsibilities. Such ignorance not only gives rise to the committing of individual atrocities but also of such grave human rights violations as massacres and genocide.

64. The international community, including United Nations agencies as well as non-governmental organizations, has repeatedly tried to implement a policy of "constructive engagement" with their Afghan interlocutors concerning such issues as the right to equal opportunity and gender equality, especially in the field of female education and employment by providing, inter alia, economic incentives. Tangible responses to such efforts cannot be expected in all parts of Afghanistan at present. Nevertheless, such efforts at constructive and mutually beneficial dialogue should continue to be actively pursued by the international community. Afghan leaders should be invited to observe a minimum of international standards regarding gender issues, since constructive engagement is more effective than sanctions. The prerequisite of minimal conditions must be met so that no further gender discrimination takes place. These conditions have not been met in most parts of Afghanistan at present although they are not merely a prerequisite for foreign aid but also represent a sine qua non for the survival of Afghanistan as a member of the international community and in particular as a member of the United Nations.

65. The imposition of sanctions and other deterrents against human rights violators can perhaps play a minor role for a certain period of time, but will ultimately not facilitate the sustainable observance of human, including women's rights. International aid agencies should, however, pay much greater attention and provide assistance on a priority basis to areas where policies of respect for and promotion of women's rights are followed.

66. It is indispensable for and a duty of the United Nations, as the universal defender of human rights, to respond to such grave acts and human rights violations as massacres. A thorough and full-scale investigation of all killings, including the "mass graves", in northern Afghanistan should be undertaken by the United Nations in order to seek out and punish the violators responsible for committing such atrocities. The United Nations must be vigilant and give priority to protecting the human rights of large segments of the Afghan population against atrocities such as massacres. Silence cannot be the strategy of the international community.

67. The Special Rapporteur invites consultations within the international community, including Member States of the United Nations, United Nations agencies and non-governmental organizations, on how to curb the new tide of human rights violations committed by both sides involved in the conflict in Afghanistan. He voices strong concern over the issue of the vicious circle of retaliations, including in the form of massacres, which has been raised by numerous Afghans, especially in view of the quantity and easy availability of weapons and ammunition in the country.

68. The prima facie assessment and initial fact-finding conducted by the Special Rapporteur and the forensic expert who was made available to him are not sufficient to fulfil the role of the United Nations in the context of such tragic violations of human rights. In order to gain comprehensive insight into the killings perpetrated by all sides, in particular in northern Afghanistan, a full-scale investigation with forensic experts and other specialists needs to be conducted. Out of respect for and a duty to the victims, those accused of violating human rights and all norms of humanitarian laws should be found, investigated and punished by the competent authorities if found guilty in order to avoid nourishing further ethnic resentment and to deter such illegal conduct in the future.

69. With specific reference to the localities, including mass graves and burial sites, visited by the Special Rapporteur in northern Afghanistan, it is important for a neutral team of independent investigators to conduct further fact-finding as soon as logistically possible with a view to collecting further evidence to determine if indeed and when the alleged atrocities occurred and the numbers of victims involved. The assessment would, to the extent possible, include establishing the identity and category of the victims, as well as the manner and cause of death. Due regard should be given in this connection to the strategies proposed and recommendations made by Dr. Skinner (see annex).

70. Concerning the villages near Mazar-i-Sharif where civilians are alleged to have been tortured and killed by Taliban soldiers, as was the case with the two villages visited by the Special Rapporteur, bodies could be excavated, with permission, to see if allegations such as the severing of the leg of one of the old men who was killed are founded.

71. With regard to the legal assessment of the behaviour concerned, a special investigative team of experts should be created comprising experts in forensic science, military operations, and prosecution and adjudication of breaches of the international laws of war and humanitarian norms. If deemed appropriate, the team could also include a prosecuting attorney with experience in arguing this type of case so as to increase the chances of obtaining a conviction under international law.

72. In order to minimize political manipulation of the atrocities and to conduct an objective investigation and independent research, efforts have to be made to obtain the necessary full cooperation of all the participants in the armed conflict in Afghanistan.